

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4331 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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UNION OF INDIA

Versus

G D CHANDWANI

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Appearance:

MR MUKESH A PATEL for Petitioners

MR PH PATHAK for Respondent No. 1

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CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE C.K.BUCH

Date of decision: 13/07/1999

ORAL JUDGEMENT [ PER :C.K. THAKKAR, J ]

Rule. Mr Pathak appears on behalf of the respondent and waives service of notice of Rule. In view of the fact that on first hearing on 22nd June, 1999, we had issued notice " as to admission as well as final hearing, this petition is taken up for final hearing today.

This petition is filed against the decision of the Central Administrative Tribunal, Ahmedabad Bench in O.A. No. 84 of 1999 on 9th April, 1999 which was filed

by the applicant against an apprehended action of transfer.

Respondent was the original applicant. Against an apprehended order of transfer, he had filed above petition. Tribunal, disposed of the matter by issuing directions, operative part of which reads as under :-

" Accordingly FA&CAO, Western Railway is directed to consider the case of the applicant keeping in view of the observations made and especially keeping in view of the letter dated 8.5.1998 and take a decision keeping in view the administrative exigencies and also relevant factors. In case it is decided by the FA&CAO to transfer the applicant for reasons to be recorded it shall not be effected to for two weeks from the date of issue."

In our opinion, the above order could not have been passed by the Central Administrative Tribunal and it deserves to be set aside. As per well settled law the above view cannot be sustained. We were to record reasons in support of our view, but Mr. Pathak, learned counsel for the respondent submitted that recording of reasons may come in the way of the respondent in future proceedings. He, therefore, prayed to the Court that he has no objection if the order passed by the Tribunal is set aside, but reasons may not be recorded.

In our opinion, prayer is reasonable and in the facts and circumstances, prayer is granted. The impugned order dated 9th April, 1999 passed by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad in O.A.No. 84 of 1999 is hereby quashed and set aside and O.A. No.84 of 1999 stands dismissed. Dismissal of O.A., however, will not come in the way of the applicant-respondent herein in getting an appropriate relief in an appropriate proceedings in future.

Rule is made absolute to the above extent. In the facts and circumstances of the case, no order as to costs.

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